

REMARKS

Applicants wish to thank the Examiner for the indication that claims 9-22 are allowable.

Claims 1-5, 8, 24, and 25 stand rejected under 35 U.S.C. § 103(a) over Matsumoto (U.S. Patent Publication No. 2003/0016712) in view of Oster et al. ("Gain spectra measurement of strained and strain-compensated InGaAsP-AlGaAs Laser structure for $\lambda \approx 88$ nm"). Applicants respectfully traverse this rejection.

As noted by the Examiner, both the Matsumoto reference and the current application are assigned to Sharp Kabushiki Kaisha, of Osaka, Japan. Applicants further submit that at the time the present invention was made the application and the Matsumoto reference were owned by, or subject to an obligation of assignment to, the same entity, Sharp Kabushiki Kaisha. Accordingly, under 35 U.S.C. § 103(c), Matsumoto, which qualified as prior art only under 35 U.S.C. § 102(e), is disqualified as prior art. (*See* MPEP 706.02(I)(2).) Claims 1-5, 8, 24, and 25 are therefore allowable.

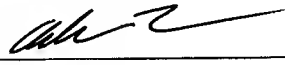
Claim 26 stands rejected under 35 U.S.C. § 103(a) over Oster in view of Fukunaga (U.S. Patent No. 6,127,691). Applicants have cancelled claim 26, thereby mooted this rejection.

In view of the above, this application is in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **204552028900**.

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Respectfully submitted,

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